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HUMAN RIGHTS COMMITTEE

Sixty-third session

SUMMARY RECORD OF THE 1671st MEETING

Held at the Palais des Nations, Geneva,
on Monday, 13 July 1998, at 10.30 a.m.

Chairperson: Ms. CHANET

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GE.98-16792 (E)

The meeting was called to order at 10.45 a.m.

OPENING OF THE SESSION

1. The CHAIRPERSON declared open the sixty-third session of the Human Rights Committee.

RESIGNATION OF MR. TÜRK

2. The CHAIRPERSON announced that Mr. Türk had resigned from his position as a member of the Committee.

ADOPTION OF THE AGENDA (item 1 of the provisional agenda) (CCPR/C/134 and Corr.1)

3. The CHAIRPERSON, drawing attention to the corrigendum to the provisional agenda (CCPR/C/134/Corr.1), pointed out that, under the revised timetable for consideration of reports of States parties, the Committee was to consider the fourth periodic report of Italy (CCPR/C/103/Add.4) instead of the third periodic report of the Libyan Arab Jamahiriya (CCPR/C/102/Add.1) on Friday, 17 July.

4. The agenda was adopted.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2)

5. The CHAIRPERSON announced that, at the closed meeting to be held that afternoon, she would report on her recent meeting with the High Commissioner for Human Rights. The Committee would also consider matters arising from the denunciation of the Optional Protocol by Trinidad and Tobago and would finalize its preliminary conclusions on the question of reservations to treaties. She drew to the attention of members an unofficial document that had been distributed containing the proposed programme of work for the sixty-third session of the Committee.

6. In reply to a question by Mr. KRETZMER, she said that the time set aside for the consideration of communications would probably be sufficient, as only three cases (two views and one decision on admissibility) had been left over from the New York session. If necessary, the closure of the session could be deferred until the afternoon of Friday, 31 July.

7. The programme of work was approved.

8. Mr. YALDEN, speaking as Chairman/Rapporteur of the pre-sessional working group, said that the working group's members deserved special thanks for the patience and understanding they had shown under rather difficult circumstances. He understood that administrative problems were to be discussed at the closed meeting that afternoon and he would revert to the matter at that stage.

9. The group had met throughout the week preceding the session; Ms. Evatt, Lord Colville, Mr. Pocar, Mr. Prado Vallejo, Mr. Scheinin and himself had been present at all the meetings, Mr. Klein had attended on the Thursday and Friday, and Mr. Bhagwati had joined the group on the Friday. In connection with communications under the Optional Protocol, the group had adopted 13 views and 5 decisions declaring communications inadmissible and had recommended that four communications be declared admissible. A further short meeting of the working group was to be held during the current week to consider one outstanding decision on admissibility.

10. With regard to country reports, the working group had considered the initial reports of Israel (CCPR/C/81/Add.13) and of the former Yugoslav Republic of Macedonia (CCPR/C/74/Add.4), the second periodic report of Algeria (CCPR/C/101/Add.1), the third periodic report of the United Republic of Tanzania (CCPR/C/83/Add.2) and the fourth periodic report of Italy (CCPR/C/103/Add.4). It had also considered materials submitted by numerous intergovernmental and non-governmental organizations (NGOs). No changes had been made to the list of issues to be taken up in connection with the consideration of the fourth periodic report of Ecuador (CCPR/C/84/Add.6), which had already been approved at the New York session.

11. In addition to being briefed by specialized agencies and NGOs, the pre-sessional working group had also considered a large amount of written material and had viewed some video material supplied by one NGO. It had also been briefed by one of the Desk Officers appointed following the restructuring of the Office of the High Commissioner for Human Rights. The Desk Officers responsible for matters relating to each of the reports to be considered at the current session would be at the disposal of the members of the Committee throughout the session.

12. The working group had also been briefed on the Secretary-General's decision to establish a panel of eminent persons to carry out a mission to Algeria. It had discussed a second draft general comment on article 12 prepared by Mr. Klein and had agreed that any suggestions concerning it should be handed in writing to Mr. Klein. Lastly, six members of the group had been received by the High Commissioner for Human Rights.

13. Mr. de ZAYAS (Secretary of the Committee), replying to Mr. PRADO VALLEJO, said that the French and Spanish texts of the various lists of issues had unfortunately been delayed because the translation services were fully occupied by work for the Rome Conference on the Establishment of an International Court of Justice. He hoped that the translations could be distributed in time for the consideration of the respective reports. In reply to points raised by Mr. BUERGENTHAL and Mr. LALLAH, he said that the written materials submitted by NGOs would be distributed to all the members of the Committee.

Draft list of issues to be taken up in connection with the consideration of the initial report of Israel (CCPR/C/81/Add.13)

Paragraphs 1 and 2

14. Paragraphs 1 and 2 were adopted.

Paragraphs 3 to 7

15. Ms. EVATT said that the paragraph numbers appearing in square brackets in paragraphs 3 and 6 referred to the original version of the report of Israel and had been included for greater convenience. She would have no objection to their deletion.

16. Mr. YALDEN agreed that, the paragraph numbers appearing in square brackets throughout the list of issues should be deleted.

17. Ms. MEDINA QUIROGA said that it was very difficult to comment on a list of issues that had only just been distributed.

18. The CHAIRPERSON said that she had received her own copy only three days previously. Her first impression, however, was that the list of issues covered areas of concern suggested by the contents of the report and the material received from NGOs.

19. Mr. ZAKHIA proposed the insertion of a question in paragraph 7 concerning disparities between men and women under religious "personal status" legislation.

20. Ms. EVATT pointed out that paragraph 30 addressed that issue.

21. Paragraphs 3 to 7 were adopted.

Paragraph 8

22. Paragraph 8 was adopted.

Paragraphs 9 to 13

23. The CHAIRPERSON suggested that the words "freedom from" in the five paragraph headings should be amended to read "prohibition of".

24. It was so decided.

25. Ms. EVATT said that the heading of paragraph 9 should contain a reference to article 7 as well as article 6.

26. Paragraphs 9 to 13, as amended, were adopted.

Paragraph 14

27. Paragraph 14 was adopted.

Paragraphs 15 to 17

28. The CHAIRPERSON suggested that the headings of paragraphs 15 to 17 should be amended to read "Right to liberty and security of person".

29. It was so decided.

30. Paragraphs 15 to 17, as amended, were adopted.

Paragraphs 18 and 19

31. Paragraphs 18 and 19 were adopted.

Paragraph 20

32. The CHAIRPERSON suggested that a reference to article 26 should be included in the heading to reflect the question concerning differences in treatment between Jewish and non-Jewish juvenile offenders.

33. It was so decided.

34. Paragraph 20, as amended, was adopted.

Paragraphs 21 to 25

35. The CHAIRPERSON asked why choice of residence was the subject of both paragraph 22 and paragraph 25.

36. Mr. YALDEN said that paragraph 25 related specifically to the issue of the destruction of the family homes of suspected terrorists. He suggested that it should follow immediately after paragraph 22.

37. It was so decided.

38. Mr. ZAKHIA said that homes were destroyed not only because family members were suspected terrorists but also on the grounds that no building permit had been issued. As it was extremely difficult for Arabs to obtain permission to build, the fundamental right to a home was violated in such cases.

39. Ms. EVATT proposed deleting the references to "choice of residence" in the heading and the first question of paragraph 25 and adding a reference to article 17.

40. It was so decided.

41. The CHAIRPERSON suggested that the second question in the paragraph should be incorporated in paragraph 21.

42. It was so decided.

43. Paragraphs 21 to 25, as amended, were adopted.

Paragraphs 26 to 34

44. Paragraphs 26 to 34 were adopted.

45. Ms. EVATT, in reply to a question by the CHAIRPERSON, said she regretted the omission of questions concerning the State party's reservations and its possible accession to the Optional Protocol.

46. Mr. LALLAH said it was the first occasion in his recollection that a report had been received only a few days before Committee members were expected to engage in a constructive dialogue with a State party. To make matters worse, it was available only in the language of submission, so that non-English-speaking members of the Committee were placed at a serious disadvantage and would be hard put to comply with their solemn undertaking to treat all States parties equally. It was an intolerable situation.

47. Mr. YALDEN said that the situation had been equally unacceptable for the working group, which had not received the report in time for its meetings the previous week.

48. Ms. MEDINA QUIROGA said she fully supported Mr. Lallah's statement and felt very uncomfortable about the fact that the Committee was unprepared for the forthcoming exercise.

49. Ms. GAITAN DE POMBO said that, as a non-English-speaker, she had been placed in an extremely awkward position.

50. She supported the proposal for a question regarding reservations.

51. Mr. ANDO supported the view expressed by Mr. Lallah, and endorsed the Chairperson's suggestion that a question on reservations should be added to the list.

52. Mr. ZAKHIA also supported Mr. Lallah's view. Since the report was an initial one, and would thus form the basis of later judgements, it was all the more important that it should be made available in the various languages to facilitate consideration by the Committee.

53. He agreed that a question on reservations should be included, and suggested that a further question on the right of women to transmit Israeli nationality to their children be added.

54. Mr. BHAGWATI agreed that the short time left for members to study both the report itself and the large amount of material made available by NGOs would make it very difficult to put relevant questions to the Israeli delegation. He supported the inclusion of a question on reservations.

55. The CHAIRPERSON said that she associated herself with earlier speakers in deploring the conditions under which the Committee had to work.

56. She suggested that, under the heading of equality and non-discrimination, a further question be added on whether Israeli nationality could be handed down by both men and women.

57. It was so decided.

58. Mr. BUERGENTHAL joined in regretting the late submission of the report, and suggested that consideration of it be postponed.

59. Mr. LALLAH, having stated that he had not intended any criticism of the working group, said that it would be counterproductive to postpone consideration of the report to a subsequent session. The best solution would be simply to defer it until the following week and to take up in the interim another report dealing with a situation more familiar to Committee members.

60. The CHAIRPERSON said that the Committee's schedule for the following week was already overloaded. If the date for consideration of the Israeli report was postponed, it might then be difficult to persuade the delegations of other States parties to change dates to which they had already agreed. She pointed out that the Israeli report had arrived on 9 April 1998 while the Committee had been in New York, and its late distribution was, consequently, the fault not of Israel but of the United Nations.

61. Mr. ANDO urged that, if any postponement was decided on, care should be taken to leave the timetable for consideration of reports of other States parties intact.

62. Mr. YALDEN said that, while he understood Mr. Lallah's concern, any change in the timetable would be bound to create difficulties. For instance, the report of the former Yugoslav Republic of Macedonia was a lengthy document which had arrived late, and that of Algeria was difficult and controversial, to bring consideration of those reports forward would create similar problems.

63. Mr. POCAR said that, although members of the Committee who had not been members of the working group would find it very difficult to absorb the Israeli report by 15 July, changes in the agreed timetable were best avoided. He suggested that the Committee should at least embark on its consideration of that report on the date set and then, if it found itself unable to deal with certain questions on the list of issues, it could postpone consideration of those questions until later. A start could be made by preparing a list of questions on which attention could initially be focused.

64. The CHAIRPERSON suggested that it would cause fewer difficulties for the Israeli delegation if the Committee took up its report on the afternoon of 15 July or the morning of 16 July.

65. Mr. PRADO VALLEJO said that what concerned him was that the Committee risked setting a precedent by embarking on consideration of reports which a majority of its members had not even read. Such a precedent would be highly undesirable. He suggested that the Committee should apologise to Israel, and

decide to postpone consideration of its report until November. If that were not possible, the Chairperson should at least initiate consultations with the delegations of other States parties to see whether the necessary adjustments to the timetable could be made so as to enable the report to be taken up later in the current session.

66. Ms. MEDINA QUIROGA supported that suggestion.

67. Mr. EL SHAFEI pointed out that, where the report of Israel was concerned, the working group, too, had had to work under very difficult conditions, and the drafting of a list of issues was in itself something of an achievement. He agreed that the least damaging course would be to move consideration of the report forward to the afternoon of 27 July. It was not the first time the Committee had had to deal with a report provided in one language only, and he urged that no further time should be spent in discussing the issue.

68. Mr. KLEIN said it would be preferable to deal with the report as scheduled, and to decide in advance on the order in which the various questions on the list should be taken up.

69. The CHAIRPERSON said she took it the consensus was that the timetable would be left unchanged. The Committee would decide that afternoon in closed session how the questions on the list of issues relating to the Israeli report were to be distributed.

70. It was so decided.

71. The list of issues to be taken up in connection with the consideration of the initial report of Israel (CCPR/C/81/Add.13), as amended, was adopted.

Draft list of issues to be taken up in connection with the fourth periodic report of Italy (CCPR/C/103/Add.4)

Paragraph 1

72. Mr. ANDO proposed that the paragraph should be deleted. It went without saying that the State party would add any information that had become available.

73. Lord COLVILLE said that, while he had no objection to deletion of the paragraph, he had included it because he understood that Italy had indicated that it was not prepared to furnish information subsequent to the date of submission of the report. That would mean that the Committee would have before it only material that was two years old.

74. Mr. de SAYAS (Secretary) in response to a question from the CHAIRPERSON, explained that Italy had only recently been requested to report to the Committee at its sixty-third session as a replacement for Libya. It had, therefore, not been possible for it to make any submissions subsequent to 30 October 1996. The Secretariat had been in close contact with the Italian mission, and the State party was aware that, at very least, an oral update would be desirable.

75. The CHAIRPERSON said she noted that the draft list of issues had already been sent to the State party.

76. Ms. MEDINA QUIROGA stressed that the Committee had never before made such a request to a State party. It was normally to be expected that any necessary updating would be provided, and she supported the suggestion that the paragraph be deleted.

77. Ms. EVATT said the issue had caused some difficulty in the working group. The best solution would be for the Chairperson to make a statement before the report was presented that, as a matter of principle, all reports should cover the period up to the date of their presentation.

78. Lord COLVILLE supported that suggestion. The draft list of issues having been sent to the State party, the Committee had made its point and paragraph 1 could be deleted.

79. It was so decided.

80. Mr. ZAKHIA said the list of issues should begin with questions about general matters and then go on to particular problems. One important general matter was that of discrimination against women and he proposed that a question on the subject should be added.

81. The CHAIRPERSON pointed out that paragraph 7 dealt with gender discrimination.

82. Lord COLVILLE said that the issue raised by Mr. Zakhia was precisely one of those on which the Committee needed to have additional, up-to-date information. A Ministry for Equal Opportunities had been established in 1996 but, because the report had been written in the same year, no information on the subject had been available. The need for the latest information on equality between men and women should perhaps be raised during the discussion.

Paragraph 2

83. Mr. KLEIN pointed out that paragraph 9, like paragraph 2, dealt with issues relating to article 14. He proposed that article 9 be transposed to follow paragraph 2 in the list of issues.

84. Lord COLVILLE explained that, in drafting the list of issues, he had sought to focus on the most important matters, especially those raised in the Committee's conclusions and recommendations concerning previous reports. In Italy's case, the main issue was the slow movement of the legal machinery: approximately 30,000 cases were currently awaiting trial. If the Committee addressed issues in the order in which they appeared in the Covenant, there might not be sufficient time to explore fully the important matters connected with article 14. The questions raised in paragraph 9, which likewise related to article 14, were less important than the one in paragraph 2.

85. Mr. KLEIN said that, while he accepted those arguments, he would prefer the two paragraphs dealing with article 14 to become the first two paragraphs in the list of issues.

86. Mr. KRETZMER proposed an addition to paragraph 9, to become subparagraph 9 (d), which would read: "Under what circumstances can a person be tried in absentia and is the law in Italy consistent with article 14, paragraph 3, subparagraph (d), of the Covenant?"

87. Lord COLVILLE said he welcomed that proposal and would like to supplement it by an additional sentence to read: "Does a person tried in absentia have the right to a retrial if he or she returns to Italy and is apprehended there?"

88. The CHAIRPERSON said that she took it that the Committee wished to adopt those amendments to paragraph 9 and to transpose the paragraph so that it would follow paragraph 2.

89. It was so decided.

90. Paragraphs 2 and 9, as amended, were adopted.

Paragraph 3

91. The CHAIRPERSON suggested that the phrase "The State party is requested to" be replaced by the word "Please".

92. It was so decided.

93. Paragraph 3, as amended, was adopted.

Paragraph 4

94. The CHAIRPERSON suggested that, since paragraph 4 and paragraph 8 both contained two subparagraphs dealing with conditions of detention, they should be combined to form subparagraphs (a) to (d), of a single paragraph, namely, paragraph 4.

95. It was so decided.

96. Paragraph 4, as amended, was adopted.

Paragraph 5

97. The CHAIRPERSON suggested that paragraphs 5 and 7 be combined, as they both dealt with discrimination.

98. Lord COLVILLE said that the paragraphs dealt with different aspects of discrimination, each of which was highly important in its own right. He would therefore prefer the two paragraphs to remain separate.

99. Mr. SCHEININ said he agreed that the paragraphs should remain separate but suggested that the very broad title of paragraph 5, "Discrimination", should be amended to read: "Discrimination against foreigners and immigrants". Articles 9, 10, 12, 13 and 14 might be cited in the heading, in addition to article 26.

100. It was so decided.

101. Paragraphs 5 and 7, as amended, were adopted.

102. Mr. YALDEN, referring to the issue of gender discrimination raised in paragraph 7, said that there was very little information on the situation of women in the report and absolutely no information on the independent monitoring body that was to have been set up to check on whether equal opportunities were available for men and women.

Paragraph 6

103. The CHAIRPERSON, responding to a comment by Mr. ZAKHIA, suggested that the title of the paragraph should be revised to conform to the wording of article 9 of the Covenant and to read "Liberty and security of the person".

104. It was so decided.

105. Paragraph 6, as amended, was adopted.

Paragraph 10

106. Mr. YALDEN said that a question that had appeared in an earlier version of the list had been omitted. It had dealt with the institution of the national ombudsman. He suggested that that omission be rectified.

107. It was so decided.

108. Lord COLVILLE, responding to a query by the CHAIRPERSON regarding the title of the paragraph ("Implementation of the Covenant"), said he had been unable to find a better title to cover the range of issues therein. He was open to any suggestions for improvement.

109. The CHAIRPERSON suggested that the paragraph be divided: subparagraphs (a) and (b), which dealt with training and information, should form one paragraph, while subparagraphs (d) and (e), relating to ombudsmen and human rights monitoring bodies, should form another. Subparagraph (c) which dealt with the National Observatory on Religious Freedom and religious movements or sects, should be deleted or, if it were retained, incorporated in paragraph 12 the on protection of the family.

110. Lord COLVILLE pointed out that subparagraph (c) dealt with issues raised under article 18 on freedom of thought, conscience and religion. He would be averse to deleting it, as religious sects represented a serious problem in some countries. It might become a separate paragraph relting to article 18.

111. Mr. YALDEN, in reply to a question by Ms. MEDINA QUIROGA, said that the Committee had received no confirmation that the National Observatory on Religious Freedom had actually been set up: the subparagraph should therefore be rephrased as a question as to whether it had been established, rather than incoming the activities it had undertaken.

112. The CHAIRPERSON said she took it that the Committee wished to divide paragraph 10 into three separate paragraphs along the lines suggested in the course of the discussion.

113. It was so decided.

114. Paragraph 10, as amended, was adopted.

Paragraphs 11 to 13

115. Paragraphs 11 to 13 were adopted.

Paragraph 14

116. Ms. MEDINA QUIROGA, supported by Mr. BUERGENTHAL, proposed that the title should be revised to correspond to the wording of article 27 of the Covenant, namely "Rights of persons belonging to minorities".

117. Mr. YALDEN said that article 27 also used the phrase "in community with the other members of their group". The title "Rights of Minorities" thus seemed perfectly acceptable, as it covered both the group and the individuals. Nevertheless, he was able to accept the proposal.

118. The proposal was adopted.

119. Paragraph 14, as amended, was adopted.

120. The list of issues as a whole, as amended, was adopted.

Draft list of issues to be taken up in connection with the third periodic report of the United Republic of Tanzania (CCPR/C/83/Add.2)

121. Lord COLVILLE said that, once again, the list of issues had been drafted in such a way as to draw attention from the very start to the most important ones. The issues were thus covered not in the order in which they appeared in the Covenant but in keeping with points raised in the previous concluding observations and recommendations made by the Committee.

Paragraphs 1 to 3

122. Paragraphs 1 to 3 were adopted.

Paragraph 4

123. The CHAIRPERSON suggested that the title be changed to read "Protection of refugees in conformity with the provisions of the Covenant".

124. It was so decided.

Paragraph 5

125. The CHAIRPERSON suggested that the paragraph be broken into two: subparagraphs (a) and (b), dealing with issues under article 9 and relating to liberty and security of the person, would form one paragraph, while subparagraphs (c) and (d), dealing with issues under article 7 on torture, would form another.

126. It was so decided.

127. Mr. POCAR proposed that, in paragraph 5 (b), the word "unjustifiably" should be replaced by "unlawfully", the term used in the Covenant.

128. It was so decided.

129. Paragraph 5, as amended, was adopted.

Paragraphs 6 and 7

130. Paragraphs 6 and 7 were adopted.

The meeting rose at 1 p.m.